

1 A bill to be entitled
 2 An act relating to public records; amending s. 985.04,
 3 F.S.; providing information obtained under ch. 985,
 4 F.S., is confidential and exempt from public records
 5 requirements; providing for future review and repeal
 6 of the exemption under the Open Government Sunset
 7 Review Act; providing all information collected on
 8 juveniles who have only committed misdemeanors are
 9 confidential and exempt from public records
 10 requirements; amending s. 943.053, F.S.; providing for
 11 the Department of Law Enforcement's release of the
 12 criminal history information of a juvenile that has
 13 been deemed confidential and exempt under specified
 14 circumstances; providing for the Department of Law
 15 Enforcement's release of the criminal history
 16 information of a juvenile that has not been deemed to
 17 be confidential and exempt; providing a statement of
 18 public necessity; amending s. 943.056, F.S.,
 19 conforming language to changes made in the act;
 20 providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:
 23

24 Section 1. Subsections (1) and (2) of section 985.04,
 25 Florida Statutes, are amended to read:
 26 985.04 Oaths; records; confidential information.—

27 (1) (a) Except as provided in subsections (2), (3), (6),
 28 and (7) and s. 943.053, all information obtained under this
 29 chapter in the discharge of official duty by any judge, any
 30 employee of the court, any authorized agent of the department,
 31 the Florida Commission on Offender Review, the Department of
 32 Corrections, the juvenile justice circuit boards, any law
 33 enforcement agent, or any licensed professional or licensed
 34 community agency representative participating in the assessment
 35 or treatment of a juvenile is confidential and exempt from s.
 36 119.07(1) and s. 24(a), Art. 1, of the State Constitution. This
 37 public record exemption applies to information obtained before,
 38 on, or after the effective date of this act.

39 (b) Such confidential and exempt information ~~and~~ may be
 40 disclosed only to the authorized personnel of the court, the
 41 department and its designees, the Department of Corrections, the
 42 Florida Commission on Offender Review, law enforcement agents,
 43 school superintendents and their designees, any licensed
 44 professional or licensed community agency representative
 45 participating in the assessment or treatment of a juvenile, and
 46 others entitled under this chapter to receive that information,
 47 or upon order of the court.

48 (c) Within each county, the sheriff, the chiefs of police,
 49 the district school superintendent, and the department shall
 50 enter into an interagency agreement for the purpose of sharing
 51 information about juvenile offenders among all parties. The
 52 agreement must specify the conditions under which summary

53 criminal history information is to be made available to
 54 appropriate school personnel, and the conditions under which
 55 school records are to be made available to appropriate
 56 department personnel. Such agreement shall require notification
 57 to any classroom teacher of assignment to the teacher's
 58 classroom of a juvenile who has been placed in a probation or
 59 commitment program for a felony offense. The agencies entering
 60 into such agreement must comply with s. 943.0525, and must
 61 maintain the confidentiality of information that is otherwise
 62 exempt from s. 119.07(1), as provided by law.

63 (2) Notwithstanding any other provisions of this chapter,
 64 the name, photograph, address, and crime or arrest report of a
 65 child:

66 (a) Taken into custody ~~if the child has been taken into~~
 67 ~~custody~~ by a law enforcement officer for a violation of law
 68 which, if committed by an adult, would be a felony;

69 (b) Charged with a violation of law which, if committed by
 70 an adult, would be a felony;

71 (c) Found to have committed an offense which, if committed
 72 by an adult, would be a felony; or

73 (d) Transferred to adult court pursuant to part X.

74 ~~Found by a court to have committed three or more violations~~
 75 ~~of law which, if committed by an adult, would be misdemeanors;~~

76 (e) ~~Transferred to the adult system under s. 985.557,~~
 77 ~~indicted under s. 985.56, or waived under s. 985.556;~~

78 (d) ~~Taken into custody by a law enforcement officer for a~~

79 ~~violation of law subject to s. 985.557(2) (b) or (d); or~~
 80 ~~(e) Transferred to the adult system but sentenced to the~~
 81 ~~juvenile system under s. 985.565~~

82
 83 shall not be considered confidential and exempt from s.
 84 119.07(1) solely because of the child's age.

85 (d) This subsection is subject to the Open Government
 86 Sunset Review Act in accordance with s. 119.15, and shall stand
 87 repealed on October 2, 2020, unless reviewed and saved from
 88 repeal through reenactment by the Legislature.

89 Section 2. Subsections (3), (8), (9), and (10) of section
 90 943.053, Florida Statutes, are amended to read:

91 943.053 Dissemination of criminal justice information;
 92 fees.—

93 (3) (a) Criminal history information, ~~including information~~
 94 relating to an adult ~~minors~~, compiled by the Criminal Justice
 95 Information Program from intrastate sources shall be available
 96 on a priority basis to criminal justice agencies for criminal
 97 justice purposes free of charge. After providing the program
 98 with all known personal identifying information, persons in the
 99 private sector and noncriminal justice agencies may be provided
 100 criminal history information upon tender of fees as established
 101 in this subsection and in the manner prescribed by rule of the
 102 Department of Law Enforcement. ~~Any access to criminal history~~
 103 ~~information by the private sector or noncriminal justice~~
 104 ~~agencies as provided in this subsection shall be assessed~~

105 ~~without regard to the quantity or category of criminal history~~
 106 ~~record information requested.~~

107 (b) Criminal history information relating to a juvenile
 108 compiled by the Criminal Justice Information Program from
 109 intrastate sources shall be released as provided in this
 110 section. Such information is confidential and exempt from s.
 111 119.07(1) and s. 24(a), Art. 1, of the State Constitution,
 112 unless such juvenile has been:

113 1. Taken into custody by a law enforcement officer for a
 114 violation of law which, if committed by an adult, would be a
 115 felony;

116 2. Charged with a violation of law which, if committed by
 117 an adult, would be a felony;

118 3. Found to have committed an offense which, if committed
 119 by an adult, would be a felony; or

120 4. Transferred to adult court pursuant to part X of
 121 chapter 985;

122
 123 and provided the criminal history record has not been expunged
 124 or sealed under any law applicable to such record.

125 (c) Paragraph (b) of this subsection is subject to the Open
 126 Government Sunset Review Act in accordance with s. 119.15, and
 127 shall stand repealed on October 2, 2020, unless reviewed and
 128 saved from repeal through reenactment by the Legislature.

129 (d)1. Criminal history information relating to juveniles,
 130 including criminal history information consisting in whole or in

131 part of information that is confidential and exempt under
 132 paragraph (b), shall be available to:
 133 a. A criminal justice agency for criminal justice purposes
 134 on a priority basis and free of charge;
 135 b. The person to whom the record relates, or his or her
 136 attorney;
 137 c. The parent, guardian, or legal custodian of the person
 138 to whom the record relates, provided such person has not reached
 139 the age of majority, been emancipated by a court, or been
 140 legally married; or
 141 d. An agency or entity specified in ss. 943.0585(4) or
 142 943.059(4), for the purposes specified therein, and to any
 143 person within such agency or entity who has direct
 144 responsibility for employment, access authorization, or
 145 licensure decisions.
 146 2. After providing the program with all known personal
 147 identifying information, the criminal history information
 148 relating to a juvenile which is not confidential and exempt
 149 under this subsection may be released to the private sector and
 150 noncriminal justice agencies not specified in ss. 943.0585(4)
 151 and 943.059(4) in the same manner as provided in paragraph (a).
 152 As used in this section, the phrase "criminal history
 153 information relating to a juvenile which is not confidential and
 154 exempt under this subsection" shall mean the entire criminal
 155 history information relating to a juvenile who satisfies any of
 156 the criteria listed in subparagraphs 1. through 4. of paragraph

157 (b), except for any portion of such juvenile's criminal history
158 record which has been expunged or sealed under any law
159 applicable to such record.

160 3. All criminal history information relating to juveniles,
161 other than that provided to criminal justice agencies for
162 criminal justice purposes, shall be provided upon tender of fees
163 as established in this subsection and in the manner prescribed
164 by rule of the Department of Law Enforcement.

165 (e) The fee for access to criminal history information by
166 the private sector or a noncriminal justice agency shall be
167 assessed without regard to the size or category of criminal
168 history record information requested.

169 (f) The fee per record for criminal history information
170 provided pursuant to this subsection and s. 943.0542 is \$24 per
171 name submitted, except that the fee for the guardian ad litem
172 program and vendors of the Department of Children and Families,
173 the Department of Juvenile Justice, and the Department of
174 Elderly Affairs shall be \$8 for each name submitted; the fee for
175 a state criminal history provided for application processing as
176 required by law to be performed by the Department of Agriculture
177 and Consumer Services shall be \$15 for each name submitted; and
178 the fee for requests under s. 943.0542, which implements the
179 National Child Protection Act, shall be \$18 for each volunteer
180 name submitted. The state offices of the Public Defender shall
181 not be assessed a fee for Florida criminal history information
182 or wanted person information.

183 (8) Notwithstanding the provisions of s. 943.0525, and any
 184 user agreements adopted pursuant thereto, and notwithstanding
 185 the confidentiality of sealed records as provided for in s.
 186 943.059 and juvenile records as provided for in paragraph
 187 (3) (b), the sheriff of any county that has contracted with a
 188 private entity to operate a county detention facility pursuant
 189 to the provisions of s. 951.062 shall provide that private
 190 entity, in a timely manner, copies of the Florida criminal
 191 history records for its inmates. The sheriff may assess a charge
 192 for the Florida criminal history records pursuant to the
 193 provisions of chapter 119. Sealed records and confidential
 194 juvenile records received by the private entity under this
 195 section remain confidential and exempt from the provisions of s.
 196 119.07(1).

197 (9) Notwithstanding the provisions of s. 943.0525, and any
 198 user agreements adopted pursuant thereto, and notwithstanding
 199 the confidentiality of sealed records as provided for in s.
 200 943.059 and juvenile records as provided for in paragraph
 201 (3) (b), the Department of Corrections shall provide, in a timely
 202 manner, copies of the Florida criminal history records for
 203 inmates housed in a private state correctional facility to the
 204 private entity under contract to operate the facility pursuant
 205 to the provisions of s. 944.105. The department may assess a
 206 charge for the Florida criminal history records pursuant to the
 207 provisions of chapter 119. Sealed records and confidential
 208 juvenile records received by the private entity under this

209 section remain confidential and exempt from the provisions of s.
 210 119.07(1).

211 (10) Notwithstanding the provisions of s. 943.0525 and any
 212 user agreements adopted pursuant thereto, and notwithstanding
 213 the confidentiality of sealed records as provided for in s.
 214 943.059 or of juvenile records as provided for in paragraph
 215 (3)(b), the Department of Juvenile Justice or any other state or
 216 local criminal justice agency may provide copies of the Florida
 217 criminal history records for juvenile offenders currently or
 218 formerly detained or housed in a contracted juvenile assessment
 219 center or detention facility or serviced in a contracted
 220 treatment program and for employees or other individuals who
 221 will have access to these facilities, only to the entity under
 222 direct contract with the Department of Juvenile Justice to
 223 operate these facilities or programs pursuant to the provisions
 224 of s. 985.688. The criminal justice agency providing such data
 225 may assess a charge for the Florida criminal history records
 226 pursuant to the provisions of chapter 119. Sealed records and
 227 confidential juvenile records received by the private entity
 228 under this section remain confidential and exempt from the
 229 provisions of s. 119.07(1). Information provided under this
 230 section shall be used only for the criminal justice purpose for
 231 which it was requested and may not be further disseminated.

232 Section 3. Subsection (1) of section 943.056, Florida
 233 Statutes, is amended to read:

234 943.056 Criminal history records; access, review, and

235 challenge.—

236 (1) For purposes of verification of the accuracy and
237 completeness of a criminal history record, the Department of Law
238 Enforcement shall provide, in the manner prescribed by rule,
239 such record for review upon verification, by fingerprints, of
240 the identity of the requesting person. If a minor, or the parent
241 or legal guardian of a minor, requests a copy of the minor's
242 criminal history record, the Department of Law Enforcement shall
243 provide such copy, including any portions of the record which
244 may be confidential under s. 943.053(3)(b), for review upon
245 verification, by fingerprints, of the identity of the minor. The
246 providing of such record shall not require the payment of any
247 fees, except those provided for by federal regulations.

248 Section 4. The Legislature finds that it is a public
249 necessity that the criminal history information of juveniles,
250 who have not been adjudicated delinquent of a felony or who have
251 been found only to have committed misdemeanor offenses be made
252 confidential and exempt from public records requirements. Many
253 juveniles who have either completed their sanctions and received
254 treatment or were never charged in the juvenile justice system
255 have found it difficult to obtain employment. The presence of an
256 arrest or a misdemeanor record in these individuals' juvenile
257 past creates an unnecessary barrier to becoming productive
258 members of society, thus frustrating the rehabilitative purpose
259 of the juvenile system. The Legislature therefore finds that it
260 is in the best interest of the public that juveniles are given

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261 the opportunity to become contributing members of society.
262 Prohibiting the unfettered release of juvenile misdemeanor
263 records is of greater importance than any public benefit that
264 may be derived from the full disclosure and release of said
265 arrest records.

266 Section 5. This act shall take effect upon becoming law.